IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3873 OF 2005

Dhote Print Bind,
a Partnership firm registered under
the Indian Partnership Act
having its factory at D/225, TTC,
MIDC Industrial Area, Shiravane,
Post Nerul Colony,
Thane Dist--400 706, through its
Administrative Officer and
Constituted Attorney
Shri Govardhandas Makhanji Parmar : Petitioner

V/s.

1. The Navi Mumbai Municipal Corporation
through the Commissioner,
Belapur Bhavan, CBD Belapur,
Navi Mumbai--400 614.
2. The Maharashtra Industrial Development
Corporation (MIDC) through the Chief
Executive Officer, MIDC, "Udyog
Sarathi", Marol Indl Area,
Mahakali Caves Road, Andheri East,
Mumbai--400 093.

3. The State of Maharashtra
   through the Chief Secretary,
   Government of Maharashtra,
   Mantralaya, Mumbai--400 032.
4. The Secretary, Industries & Labour
   Department, Government of
   Maharashtra, Mantralaya,
   Mumbai--400 032.
5. The Secretary, Urban Development
   Department, Government of Maharashtra,
   Mantralaya, Mumbai--400 032.
6. The Industries Commissioner
   for the State of Maharashtra,
   Directorate of Industries,
   New Administrative Building,
   Opp. Mantralaya, Mumbai--400 032. : Respondents

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Mr.E.A. Sasi for the petitioner.

Mr.R.S.Apte with Mr.A.A.Garge for respondent No.1.

Mrs.Deepa Chavan with Mr.S.D.Bhate i/b. M/s.Little & Co., for respondent No.2.

Mr.S.R.Nargolkar, Asstt. Govt. Pleader for respondent Nos.3 to 6.

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CORAM : V.G.PALSHIKAR,Acg.C.J.&
SMT.N.N. MHATRE, J.

DATE : January 24, 2006.

ORAL JUDGEMENT (Per V.G.Palshikar,Acg.C.J.)

1. By this petition, the petitioner has challenged a Notification issued by the Government of Maharashtra under the provisions of section 3 of the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as the "Act"). The challenge is made in the year 2005, 14 years after the publication of the Notification and implementation thereof. The reason given for condoning this delay is that the State Government, all these 14 years, was holding out to similarly situated persons a promise that an industrial township in the said area would come up and, therefore, the petitioner was waiting for that establishment. It took 14 years for the petitioner to be dismayed and realise that an industrial township was not coming up and, therefore, it has filed this petition.

2. The learned counsel for the petitioner has placed reliance on a judgement of this Court in Ashok s/o. Balaji v. N.I.T., reported in 2004 (3) Mh.L.J. 659. That judgement was considering the provisions of section 5 of the Indian Limitation Act which empowers the Court to condone delay. The delay was already condoned by the first appellate authority and that order condoning delay

was challenged in a revision application before a single Judge of this Court at Nagpur. It was in the light of this factual background that the judgement of the Supreme Court in A.I.R. 1987 S.C. 1353 was considered by the learned single Judge. It is, therefore, a case where the first appellate Court condoned the delay in filing the appeal and that condonation was the subject-matter of challenge. In this petition, the writ jurisdiction of this Court is the first instance for coming to Court by the petitioner and, at the threshold, objection regarding laches is taken up. This judgement is, therefore, of no help to the petitioner.

3. Reliance was then placed on another judgement of the Supreme Court in Union of India v. Motion Picture Association, reported in (1999) 6 SCC 150. In that case also, the question was violation of fundamental right of the petitioner and the matter was taken up in appeal by the Government of India. In this case, there is no question of any fundamental right being affected and what is challenged is the Notification under section 3 of the Act creating a Municipality or the inherent jurisdiction of the Municipality. It is submitted at this stage by the learned counsel for the petitioner that he has raised the question of Article 14 being violated. The petitioner is a partnership concern and

Article 14 is the fundamental right of a citizen and not of a firm. Therefore, the contention that he has also raised the question of Article 14 is baseless. This judgement in Union of India v. Motion Picture Association is, therefore, of no use to the petitioner. This petition is, therefore, liable to be dismissed for sheer negligence and laches on the part of the petitioner for waiting to challenge the Notification for 14 years on a possible hope that one day an industrial township would come into existence. The law helps the diligent and not the indolent. Even condonation of negligence has its own limitation. This case is a classic example of that limitation which has been crossed.

4. The Writ Petition is, therefore, dismissed. The rule stands discharged.

Acg.CHIEF JUSTICE

SMT.N.N. MHATRE, J.